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ABSTRACT

This collection of information pieces is intended to help school personnel make better decisions regarding compliance with, first, Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination against persons with disabilities and, second, with the Individuals with Disabilities Education Act (IDEA). It is stressed that some students may have physical or mental conditions which entitle them to rights or protection under Section 504 even though they do not fall into IDEA categories. The collection includes: an IDEA/504 flow chart; a chart showing distinctions between 504 and IDEA eligible students; and a table comparing IDEA and Section 504. Most of the document consists of appended material covering: definitions under Section 504; discrimination under Section 504; Sample local school districts policy statements on Section 504 policy; a list of procedural safeguards/parent rights; a Section 504 Policy/Procedures Checklist; guidelines for parent/student rights in identification, evaluation and placement; times when school staff should consider handicap considerations; an appropriate questioning sequence when the existence of a handicapping condition is suspected; suggested classroom and facility accommodations; a student accommodation plan and a sample handout presenting information on Section 504. (DB)

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STUDENT ACCESS

A RESOURCE GUIDE FOR EDUCATORS

SECTION 504 OF THE REHABILITATION ACT OF 1973

EC 301515

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INTRODUCTION

Section 504 of the Rehabilitation Act has been with us since 1973. For many years its main thrust has been in the area of employment for individuals with handicaps and for members of minorities. However, within the last several years, the Office for Civil Rights (OCR), charged with enforcement of Section 504, has become pro-active in the field of education of handicapped individuals. Advocacy organizations and the legal system likewise have increasingly focused on Section 504's requirements to insure the education system provides the full range of special accommodations and services necessary for students with special needs to participate in and benefit from public education programs and activities. The following information focuses upon the instruction issues of Section 504 (Subpart D), and not upon employment practices.

Section 504 prohibits discrimination against handicapped persons, including both students and staff members, by school districts receiving federal financial assistance. This includes all programs or activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds. Included in the U.S. Department of Education regulations for Section 504 is the requirement that handicapped students be provided with a free appropriate public education (FAPE). These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States. However, many schools remain unclear in their understanding of this powerful law and limited in their capacity to fully implement its requirements.

All individuals who are disabled under the Individuals with Disabilities Education Act (IDEA) are also considered to be handicapped and therefore protected, under Section 504. However, all individuals who have been determined to be handicapped under Section 504 may not be disabled under IDEA. These children require a response from the regular education staff and curriculum. With respect to most handicapped students, many aspects of the Section 504 regulation concerning FAPE parallel the requirements of the Individuals with Disabilities Education Act (formerly the Education of the Handicapped Act) and state law. In those areas, by fulfilling responsibilities under the IDEA and state law, a district is also meeting the standards of the Section 504 regulations.

However, in some other respects the requirements of the laws are different. There are some students who are not eligible for IDEA services but who nevertheless are deemed handicapped under Section 504, and to whom a district may therefore have responsibilities. For the purpose of clarification in this paper, the term "handicapped" refers to students who are protected under the regulatons of Section 504 only; the term "disabled" is reserved for students who are eligible for services under IDEA.

The IDEA defines as eligible only students who have certain specified types of disabilities and who, because of one of those conditions, need special education (specially designed instruction). Section 504, on the other hand, protects all handicapped students, defined as those having any physical or mental impairment that substantially limits one or more major life activities (including learning). Section 504 covers all students who meet this definition, even if they do not fall within the IDEA enumerated categories and even if they do not need to be in a special education program.

An example of a student who is protected by Section 504, but who may not be covered by the IDEA, is one who has juvenile arthritis but who is not eligible for special education and related services through IDEA. Such a student has a health impairment but may not be covered by the IDEA if he is not eligible to receive specially designed instruction (special education). However, the student is handicapped for purposes of Section 504. A similar example might be a student with acquired immune deficiency syndrome (AIDS). Students with attention deficit disorder (ADD) or emotional/behavioral difficulties provide other examples. Such students may not meet the criteria for IDEA categories such as learning disabled, other health impaired, or emotionally disturbed. However, if their disorders or conditions substantially limit their ability to function at school, they are handicapped within the meaning of Section 504 and must be provided with the accommodations and special services necessary to benefit from FAPE.

If a district has reason to believe that, because of a handicap as defined under Section 504, a student needs either special accommodations or related services in the regular setting in order to participate in the school program, the district must evaluate the student; if the student is determined to be handicapped under Section 504, the district must develop and implement a plan for the delivery of all needed services. Again, these steps must be taken even though the student is not covered by the IDEA special education provisions and procedures.

What is required for the Section 504 evaluation and placement process is determined by the type of handicap believed to be present, and the type of services the student may need. The evaluation must be sufficient to accurately and completely assess the nature and extent of the handicap, and the recommended services. Evaluations more limited than a full special education evaluation may be adequate in some circumstances. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's current medical records. In the cases of students with ADD, current psycho-educational evaluations may be used in combination with appropriate medical information if such evaluation assessed the ADD issue. In other cases, additional testing may be necessary.

The determination of what services are needed must be made by a group of persons knowledgeable about the student. The group should review the nature of the handicap, how it affects the student's education, whether specialized services are needed, and if so what those services are. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

For the student with juvenile arthritis, Section 504 services might be the provision of a typing course and use of a typewriter/word processor to improve writing speed or to provide a less painful means of writing. For the student with AIDS, Section 504 services might be the administration and monitoring of medication, or a class schedule modified to address the student's stamina. For a student with ADD, services might include modification in the regular classroom, special assistance from an aide, a behavior plan, counseling, and/or the monitoring of medication.

It should also be noted that, under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of

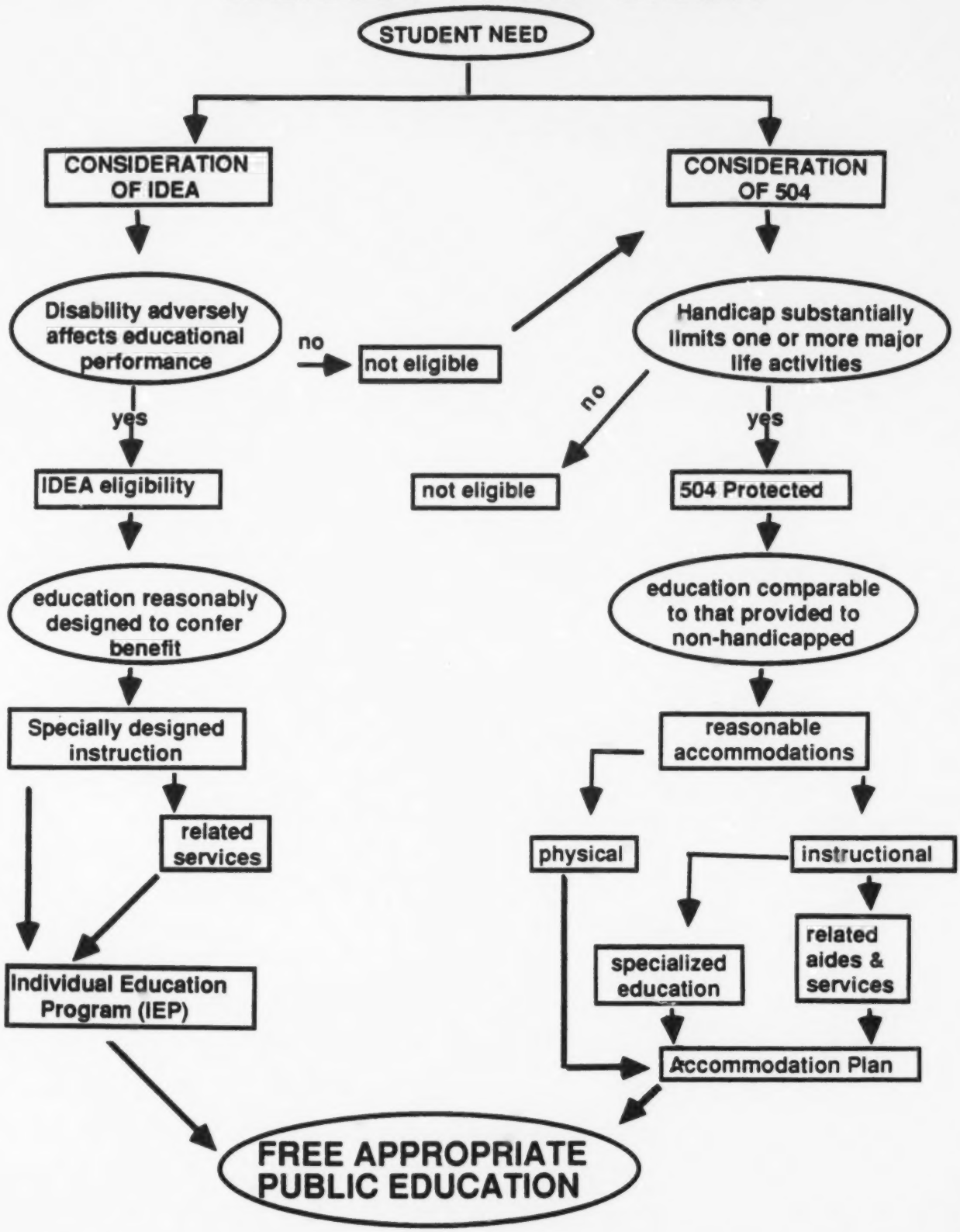
the student and are entitled to an impartial hearing if they disagree with district decisions in these areas. For handicaps covered only by Section 504 and not the IDEA, a Section 504 hearing will have to be made available.

In summary, it is important to keep in mind that some students who have physical or mental conditions that limit their ability to access and participate in the education program are entitled to rights (protection) under Section 504 even though they may not fall into IDEA categories and may not be covered by that law.

It is also important to realize that Section 504 is not an aspect of "special education." Rather, it is a responsibility of the comprehensive general public education system. As such, building administrators and superintendents of schools are responsible for its implementation within districts. Special education administrators are participants but are not ultimately the responsible LEA administrators.

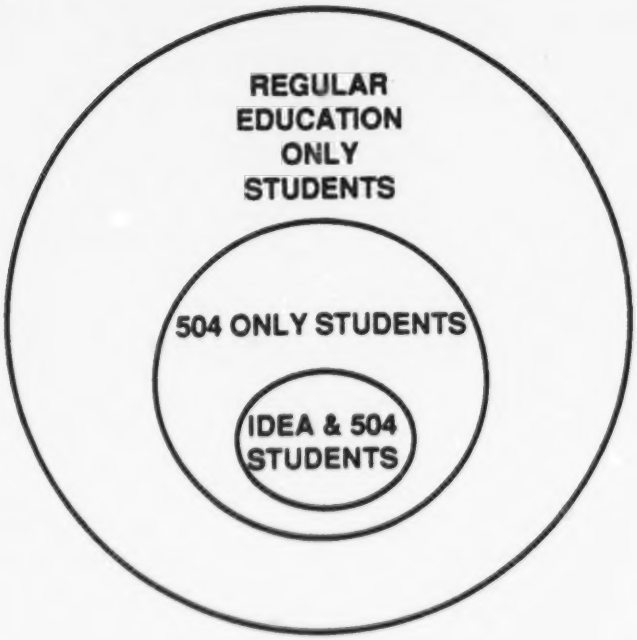
The Council of Administrators of Special Education (CASE) has organized or developed this information from various existing documents as a resource for school personnel nationally. We hope it serves to provide an increased understanding of the parameters of Section 504; how it compares and contrasts with the requirements of the Federal Special Education Statute IDEA; and how powerful it is as a Civil Rights Law protecting the rights of the "qualified individuals (students) with handicaps in the United States" to be provided with full participation in and benefits from "any (education) program or activity." This information is specific to the Federal legislation referenced. Additional requirements that may exist within certain state regulations are not addressed. We hope this information will be of help to you. For further information, contact your local State Department of Education or the U.S. Office of Civil Rights.

IDEA/504 FLOW CHART



3a

STUDENT POPULATION



IDEA/504 STUDENTS

Students are qualified under one or more of thirteen (13) IDEA disabling conditions. Specially designed individual education programs are planned for each student by IEP Teams

SECTION 504 STUDENTS ONLY

Due to substantial mental or physical impairments that limit one or more of the students major life activities, special accommodations to the student's program are required. A 504 accommodiation plan is designed for each student according to individual need.
Examples of potential 504 handicapping conditions not typically covered under IDEA are:

-communicable diseases - HIV, Tuberculosis
-medical conditions - asthma, allergies, diabetes, heart disease
-temporary medical conditions due to illness or accident
-Attention Deficit Disorder (ADD, ADHA)
-behavioral difficulties
-drug/alcohol addiction
-other conditions

IDEA AND SECTION 504
A COMPARISON

COMPONENT	IDEA	SECTION 504
General Purpose	Is a Federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for disabled children.	Is a broad civil rights law which protects the rights of individuals with handicaps in programs and activities that receive Federal financial assistance from the U.S. Department of Education.
Who is Protected?	Identifies all school-aged children who fall within one or more specific categories of qualifying conditions.	Identifies all school-age children as handicapped who meet the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment which substantially limits a major life activity, or (3) is regarded as handicapped by others. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks. The handicapping condition need only substantially limit one major life activity in order for the student to be eligible.
Responsibility to Provide a Free and Appropriate Public Education (FAPE)	Both laws require the provision of a free appropriate public education to eligible students covered under them including individually designed instruction. The Individual Education Program (IEP) of IDEA will suffice for Section 504 written plan.	
	Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.	Does not require a written IEP document, but does require a plan. It is recommended that the district document that a group of persons knowledgeable about the student convened and specified the agreed upon services.
	"Appropriate education" means a program designed to provide "educational benefit." Related services	"Appropriate" means an education comparable to the education provided to non-handicapped students, requiring

COMPONENT	IDEA	SECTION 504
	are provided if required for the student to benefit from specially designed instruction.	that reasonable accommodations be made. Related services, independent of any special education services as defined under IDEA, may be the reasonable accommodation.
Special Education vs. Regular Education	A student is only eligible to receive IDEA services if the multidisciplinary team determines that the student is disabled under one or more of the specific qualifying conditions and requires specially designed instruction to benefit from education.	A student is eligible so long as s/he meets the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment which substantially limits a major life activity, or (3) is regarded as handicapped by others. It is not required that the handicap adversely affect educational performance, or that the student need special education in order to be protected.
Funding	Provides additional funding for eligible students.	Does not provide additional funds. IDEA funds may not be used to serve children found eligible only under Section 504.
Accessibility	Requires that modifications must be made if necessary to provide access to a free appropriate education.	Has regulations regarding building and program accessibility, requiring that reasonable accommodations be made.
Procedural Safeguards	Both require notice to the parent or guardian with respect to identification, evaluation and/or placement. IDEA procedures will suffice for Section 504 implementation.	
	Requires written notice.	Does not require written notice, but a district would be wise to do so.
	Delineates required components of written notice.	Written notice not required, but indicated by good professional practice.
	Requires written notice prior to any change in placement.	Requires notice only before a "significant change" in placement.

COMPONENT	IDEA	SECTION 504
Evaluations	A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multi-disciplinary team or group.	Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgable about the student, evaluation data, and placement options.
	Requires informed consent before an initial evaluation is conducted.	Does not require consent, only notice. However, good professional practice indicates informed consent.
	Requires reevaluations to be conducted at least every 3 years.	Requires periodic reevaluations. IDEA schedule for reevaluation will suffice.
	A reevaluation is not required before a significant change in placement. However, a review of current evaluation data, including progress monitoring, is strongly recommended.	Reevaluation is required before a significant change in placement.
	Provides for independent educational evaluation. at district expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at district expense. District should consider any such evaluations presented.
Placement Procedures	When Interpreting evaluation data and making placement decisions, both laws require districts to: a. Draw upon information from a variety of sources b. Assure that all information is documented and considered. c. Ensure that the eligibility decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options. d. Ensure that the student is educated with his/her nonhandicapped peers to the maximum extent appropriate (least restrictive environment).	
	An IEP review meeting is required before any change in placement.	A meeting is not required for any change in placement.

COMPONENT	IDEA	SECTION 504
Grievance Procedure	Does not require a grievance procedure, nor a compliance officer.	Requires districts with more than 15 employees to (1) designate an employee to be responsible for assuring district compliance with Section 504 and (2) provide a grievance procedure for parents, students and employees.
Due Process	Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student.	
	Delineates specific requirements.	Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statements should clarify specific details.
Exhaustion	Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts.	Administrative hearing not required prior to OCR involvement or court action; compensatory damages possible.
Enforcement	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs.	Enforced by the U.S. Office of Civil Rights.
	The State Department of Education resolves complaints.	State Department of Education has no monitoring, complaint resolution or funding involvement.

APPENDIX

A ---- Section 504 of the Rehabilitation Act of 1973, including Definitions

B ---- Discrimination under Section 504

C ---- Section 504 Policy Statement/LEA Samples

D ---- Procedural Safeguards/Parent Rights

E ---- Section 504 Policy/Procedures Checklist

F ---- Parent/Student Rights in Identification, Evaluation and Placement

G ---- When School Staff Should Consider the Existence of a Handicap

H ---- Appropriate Questioning Sequence When the Existence of a Handicapping Condition is Suspected

I ---- Classroom and Facility Accommodations

J ---- Student Accommodation Plan and Information Regarding Section 504

APPENDIX A

SECTION 504 OF THE REHABILITATION ACT OF 1973

"No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, as defined in section 706(8) of this title, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C. Sec.794)

DEFINITIONS

individual with handicaps

..." any individual who
(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities,
(ii) has a record of such impairment, or
(iii) is regarded as having such an impairment."
(29 U.S.C. Sec.706(8))

physical or mental impairment

..."(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermic and lymphatic; skin; and endrocrine; or
(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."
(34 Code of Federal Regulations Part 104.3)

major life activities

"... functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."
(34 Code of Federal Regulations Part 104.3)

has a record of such an impairment

"... has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities."
(34 Code of Federal Regulations Part 104.3)

is regarded as having an impairment

"... (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;
(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
(C) has none of the impairments defined but is treated by a recipient as having such an impairment."
(34 Code of Federal Regulations Part 104.3)

DISCRIMINATION UNDER SECTION 504

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a handicapped person the opportunity to participate in or benefit from an aid, benefit or service which is afforded nonhandicapped students (e.g., district practice of refusing to allow any student on an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her handicapping condition; expelling a student for behavior related to his/her handicapping condition; refusing to dispense medication to a student who could not attend school otherwise).

2. Fails to afford the handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's handicapping condition).

3. Fails to provide aids, benefits, or services to the handicapped person that are as effective as those provided to nonhandicapped persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing her with an interpreter). Note: "Equally effective" means equivalent as opposed to identical. Moreover, to be equally effective, an aid, benefit or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.

4. Provide different or separate aids, benefits or services unless such action is necessary to be as effective as the aids, benefits or services provided to nonhandicapped students (e.g., segregating students in separate classes, schools or facilities, unless necessary).

5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of handicap (e.g., sponsoring a student organization that excludes persons with handicaps).

6. Denies a person with handicaps the opportunity to participate as a member of a planning or advisory board strictly because of his/her handicapping condition.

7. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others (e.g., prohibiting a person with a physical handicap from using a service dog at school).

8. In determining the site or location of a facility, makes selections which effectively exclude persons with handicaps, denies them the benefits of, or otherwise subjects them to discrimination. In Hendricks v. Gilhool, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space.

APPENDIX C

SECTION 504 POLICY STATEMENT

Local school districts may wish to review their existing "nondiscrimination policy" with particular emphasis on Subpart D of Section 504. In some instances, the existing policy may be sufficient. In other instances, districts may wish to revise existing policy or develop a separate statement concerning non-discrimination in educational programs. As a minimum, a local school district policy should include:

- an affirmative statement that the district does not discriminate on the basis of handicap.
- reference to Section 504 of the Rehabilitation Act of 1973.
- reference to a referral/evaluation/placement process for students suspected of being handicapped under Section 504.

Sample Section 504 Policy Statements

Option A

The District will identify, evaluate and provide an appropriate public education to students who are handicapped within the meaning of Section 504 of the Rehabilitation Act of 1973.

Option B

It is the policy of the Board of Education to provide a free and appropriate public education to each handicapped student within its jurisdiction, regardless of the nature or severity of the handicap.

It is the intent of the district to ensure that students who are handicapped within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services.

Option C

It is the policy of the Board of Education to provide a free and appropriate public education to each handicapped student within its jurisdiction, regardless of the nature or severity of the handicap.

It is the intent of the district to ensure that students who are handicapped within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated and provided with appropriate educational services. Students may be handicapped under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA).

Due process rights of handicapped students and their parents under Section 504 will be enforced.

_____ is the coordinator of Section 504 activities.

APPENDIX D

PROCEDURAL SAFEGUARDS/PARENT RIGHTS

There are several times during the planning process when parents/guardians should be provided their rights under Section 504:

1. When eligibility is determined.

2. When a plan is developed.

3. Before there is a significant change in the plan for services.

Notification should include the following rights under Section 504:

1. Right to file a grievance with the school district over an alleged violation of Section 504 regulations.

2. Right to have an evaluation that draws on information from a variety of sources.

3. Right to be informed of any proposed actions related to eligibility and plan for services.

4. Right to examine all relevant records.

5. Right to receive all information in the parent's/guardian's native language and primary mode of communication.

6. Right to periodic re-evaluations and an evaluation before any significant change in program/service modifications.

7. Right to an impartial hearing if there is disagreement with the school district's proposed action.

8. Right to be represented by counsel in the impartial hearing process.

9. Right to appeal the impartial hearing officer's decision.

Section 504 regulations do <u>not</u> establish timelines for submission of a hearing request.

Section 504 regulations do <u>not</u> define "impartial." However, in similar processes, impartial has been defined as a person not employed by or under contract with the district in any capacity.

Section 504 regulations do <u>not</u> require that the selection of the hearing officer be a mutually agreed upon decision between the school district and the parents/guardians.

Section 504 Policy/Procedures Checklist
Perry A. Zirkel
1991

Does your school district provide, via policy or procedures, for:	YES	NO
1a. continuing public notice that your district does not discriminate on the basis of handicap with regard to admission or access to and treatment or employment in your programs and activities?	___	___
1b. continuing internal notice (i.e., to staff and students) to the same effect? [See CFR Sec. 104.8 and 104.32(b)]	___	___
2. identification in those notices of Sec. 504 coordinator? [See 34 CFR Sec. 104.7(a) and 104.8]	___	___
3. a grievance procedure for handicap discrimination complaints that:		
a) incorporates appropriate due process standards?	___	___
b) provides for the prompt and equitable resolution of those complaints?	___	___
[See 34 CRF Sec. 104.7(b)]		
4. reasonable accommodation for handicapped employees, such as each of the following unless it demonstrably would impose an "undue hardship" on the operation of the program:		
a. accommodations readily accessible to and usable by handicapped persons?	___	___
b. job restructuring and part-time or modified work schedules?	___	___
c. acquisition or modification of equipment or devices?	___	___
d. provision of readers or interpreters and other similar actions? [See 34 CFR Sec. 104.12]	___	___
5. not using employment tests or other selection criteria that tend to screen out handicapped persons unless these criteria are demonstrably job related and unless effective alternatives are not available? [See 34 CFR Sec. 104.13(a)]	___	___
6. not making preemployment inquiries as to whether the applicant is handicapped? [See 34 CFR Sec. 104.14(a)]	___	___

		YES	NO
7.	ready <u>accessibility</u> to handicapped persons to each of your programs and activities when viewed in its entirety?	___	___
8.	an individualized <u>evaluation</u> (in the native language) for any student who is believed to (a) have a physical or mental impairment which substantially limits one or more major life activities, (b) have a record of such impairment, or (c) be regarded as having such an impairment? [See 34 CFR Sec. 104.35 and 104.3(j)]	___	___
9.	for each student meeting any of the criteria in item #8, an <u>appropriate education</u>, which is defined as regular or special education and related aids and services that are designed to meet his/her individual needs as adequately as the needs of nonhandicapped persons are met and that are based upon procedures referred to in item #10? [See 34 CFR Sec.104.33]	___	___
10.	<u>parental notice</u> (in the native language) of the rights to:		
	a) have an individualized evaluation (item #8)?	___	___
	b) examine relevant records?	___	___
	c) demand an impartial hearing with the opportunity to be represented by counsel?	___	___
	d) obtain a subsequent review? [See 34 CFR Sec.104.36]	___	___
11.	When there are separate classrooms for special education, that these be <u>comparable facilities</u> to those for regular education? [See 34 CFR Sec. 104.34(c)]	___	___
12.	<u>nonacademic and extracurricular services and activities</u> so as to provide handicapped persons with an equal opportunity for participation? [See 34 CFR Sec.104.37]	___	___
13.	reasonable access to your programs or activities, if any, of:		
	a) <u>preschool education</u>?	___	___
	b) <u>day care</u>?	___	___
	c) <u>adult education</u>? [See 34 CFR Sec. 104.38]	___	___
14.	meaningful access for <u>handicapped parents</u> to school-initiated activities in addition to the academic and/or disciplinary aspects of their child's education?	___	___

Sample

PARENT/STUDENT RIGHTS IN IDENTIFICATION, EVALUATION AND PLACEMENT

Please Keep This Explanation for Future Reference

(Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by federal law to students with handicaps. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her handicapping conditions;

2. Have the school district advise you of your rights under federal law;

3. Receive notice with respect to identification, evaluation, or placement of your child;

4. Have your child receive a free appropriate public education. This includes the right to be educated with nonhandicapped students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.

5. Have your child educated in facilities and receive services comparable to those provided nonhandicapped students;

6. Have your child receive special education and related services if s/he is found to be eligible under the Individuals with Disabilities Education Act (PL 101-476) or Section 504 of the Rehabilitation Act;

7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;

8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.

9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;

10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement;

11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;

12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;

13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;

14. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to _____.

15. Ask for payment of reasonable attorney fees if you are successful on your claim;

16. File a local grievance.

The person in this district who is responsible for assuring that the district complies with Section 504 is _____

Telephone Number_____.

APPENDIX G

WHEN SCHOOL STAFF SHOULD CONSIDER THE EXISTENCE OF A HANDICAP AND POSSIBLE SECTION 504 PROTECTION

* When suspension or expulsion is being considered for any student;
* When retention is being considered for any student;
* When a student shows a pattern of not benefitting from the instruction being provided;
* When a student returns to school after a serious illness or injury;
* When a student is referred for evaluation but it is determined not to do an evaluation under the IDEA;
* When a student is evaluated and is found not to qualify for Special Education services under the IDEA;
* When a student exhibits a chronic health condition;
* When a student is identified as "at risk" or exhibits the potential for dropping out of school;
* When substance abuse is an issue;
* When a handicap of any kind is suspected.
* When a new building or remodeling is being considered;

APPENDIX H

APPROPRIATE QUESTIONING SEQUENCE WHEN THE EXISTENCE OF A HANDICAPPING CONDITION IS SUSPECTED:

I. Is the student handicapped under Section 504 of the Rehabilitation Act of 1973?

A. Definition of "handicapped" under SECTION 504
   1. is any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, or
   2. has a record of such impairment, or
   3. is regarded (perceived) as having such an impairment.

II. If the answer to the question in I above is "yes."

A. Does the student need (qualify for) Special Education services under the IDEA (formerly EHA, PL 94-142)?

B. What does the student need in order to be afforded access to a FREE APPROPRIATE PUBLIC EDUCATION (FAPE)?

C. What is the appropriate placement for the provision of services chosen after consideration of the full continuum of placement options?
   1. If the appropriate placement is regular education, what interventions or adaptations are needed?
   2. If the appropriate placement is special education, what is the LEAST RESTRICTIVE ENVIRONMENT (LRE)?

III. If the answer to the question in I above is "no."

A. Maintain documentation about the decision that includes the following:
   1. The identity of the persons involved in the group that made the decision which reflects that they were knowledgeable about the child.
   2. The evaluation data that was used to make the decision with any interpretations that might be required.
   3. Placement options that were considered.

B. Provide WRITTEN NOTICE of the decision to the parent(s) which must include a complete statement of the parents' and student's rights under the IDEA and Section 504.

CLASSROOM AND FACILITY ACCOMMODATIONS

As local districts develop policies and procedures for guiding the referral and identification of students determined to be handicapped under Section 504, it is critical that information concerning this law and its impact on local school districts be shared with principals and building-level staff. The intent of Section 504 is to "accommodate" for differences within the regular education environment. For this to be accomplished, all staff must be provided with awareness activities and given specific information concerning the district's procedures for dealing with Section 504 referrals.

As individual students are identified, the classroom teacher may need specific training in the area of the identified handicap (e.g., training from the school nurse on danger signs of an impending asthma attack, training from a physical therapist on correct positioning of a wheelchair-bound student at his/her desk, etc.) The following classroom/facility accommodations are presented as examples of ways in which Section 504 handicaps may be successfully addressed within the regular education environment.

I. Communication

A. There may be a need to modify parent/student/teacher communications. For example:

-develop a daily/weekly journal
-develop parent/student/school contacts
-schedule periodic parent/teacher meetings
-provide parents with duplicate sets of texts

B. There may be a need to modify staff communications. For example:

-identify resource staff
-network with other staff
-schedule building team meetings
-maintain on-going communication with building principal

C. There may be a need to modify school/community agency communication. For example, with parent consent:

-identify and communicate with appropriate agency personnel working with student
-assist in agency referrals
-provide appropriate carryover in the school environment

II. Organization/Management

A. There may be a need to modify the instructional day. For example:

-allow student more time to pass in hallways
-modify class schedule

B. There may be a need to modify the classroom organization/structure. For example:

-adjust placement of student within classroom (e.g., study carrel, proximity to teacher, etc.)
-increase/decrease opportunity for movement
-determine appropriate classroom assignment (e.g., open versus structured)
-reduce external stimuli

C. There may be a need to modify the district's policies/procedures. For example:

-allow increase in number of excused absences for health reasons
-adjust transportation/parking arrangements
-approve early dismissal for service agency appointments

III. Alternative Teaching Strategies

A. There may be need to modify teaching methods. For example:

-adjust testing procedures (e.g., length of time, administer orally, tape record answers)
-individualize classroom/homework assignments
-utilize technology (computers, tape recorders, calculators, etc.)

B. There may be a need to modify materials. For example:

-utilize legible materials
-utilize materials that address the student's learning style (e.g., visual, tactile, auditory, etc.)
-adjust reading level of materials

IV. Student Precautions

A. There may be a need to modify the classroom/building climate for health purposes. For example:

-use an air purifier in classroom
-control temperature
-accommodate specific allergic reactions

B. There may be a need to modify classroom/building to accommodate equipment needs. For example:

-plan for evacuation for wheelchair-bound students
-schedule classes in accessible areas

C. There may be a need to modify building health/safety procedures. For example:

-administer medication
-apply universal precautions
-accommodate special diets

STUDENT ACCOMMODATION PLAN

NAME:_____ **BIRTHDATE:**_____ **GRADE:**____

SCHOOL:_____ **DATE OF MEETING:**_____

1. Describe the nature of the concern:

_____
_____
_____

2. Describe the basis for the determination of handicap (if any):

_____
_____
_____

3. Describe how the handicap affects a major life activity:

_____
_____
_____

4. Describe the reasonable accommodations that are necessary:

_____
_____
_____
_____
_____
_____

Review/Reassessment Date:_____
(must be completed)

Participants (Name and title)

_____ _____
_____ _____
_____ _____
_____ _____
_____ _____
_____ _____

cc: Student's Cumulative File

Attachment: Information Regarding Section 504 of the Rehabilitation Act of 1973.

INFORMATION REGARDING SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 is an Act which prohibits discrimination against persons with a handicap in any program receiving Federal financial assistance. The Act defines a person with a handicap as anyone who:

1. has a mental or physical impairment which substantially limits one or more major life activities (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working);

2. has a record of such an impairment; or

3. is regarded as having such an impairment.

In order to fulfill its obligation under Section 504, the _____ school district recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a handicap will knowihgly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504, to afford access to appropriate educational services.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing with an impartial hearing officer.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to: 1) Inspect and review his/her child's educational records; 2) make copies of these records; 3) receive a list of all individuals having access to those records; 4) ask for an explanation of any item in the records; 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights; and 6) a hearing on the issue if the school refuses to make the amendment.

If there are questions, please feel free to contact _____, 504 coordinator for the school district, at phone number_____.

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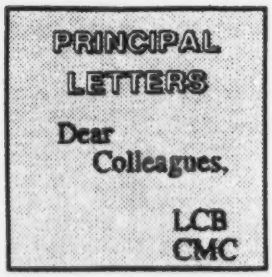

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